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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|----------------------------------------------------------------------------|-------------|----------------------|---------------------|------------------|
| 09/625,510 | 07/25/2000 | Fumiaki Kamijo | 040405/0323 | 7595 |
| 22428 | 7590 | 04/08/2005 | EXAMINER | |
| FOLEY AND LARDNER SUITE 500 3000 K STREET NW WASHINGTON, DC 20007 | | | GRIER, LAURA A | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2644 | |

DATE MAILED: 04/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/625,510

Applicant(s)

KAMIJO, FUMIAKI

Examiner

Laura A Grier

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2644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,5,9,10,13,17,18 and 21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5,9,10,13,17,18 and 21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1, 9, and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, 9, and 17, respectively recite the term, "error sound". Even though, "error sound" has been disclosed in the specification, a detailed explanation of what is meant by an error sound as it relates to volume control has not been provided.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 5, 9, 13, 17, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fado in view of Rothschild et al., U. S. Patent No.5487102.

Regarding **claims 1, 9 and 17**, Fado discloses configuring audio interface for multiple combinations of microphones and speakers. Fado's disclosure comprises a hard drive and/or RAM on a computer system with a Wizard tool (software) with volume criteria for adjusting

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volume for a plurality of sound cards or one of the plurality of sound cards (audio software applications) as selected via Windows95 platform - operating system, (abstract, col. 6, lines 18-23, 42-45, col. 11, lines 1-4, col. 9, lines 20-28, col. 13, lines 19-31 and col. 15, lines 36-60), which indicates a memory on a personal computer for storing plural sound volume setting information for a variety of software applications, volume adjustment control via an operating system based upon the sound volume setting information. However, Fado fails to specifically disclose an adjustment of volume in respect to a system sound (error sound) of an operating system.

Regarding the system sound (error sound) of an operating system, Rothschild et al. (herein, Rothschild) discloses providing and storing operating parameters including audio characteristics such as volume, wherein adjustments of volume include a default volume level, which is default in respect the specified operating characteristics of the workstation or computer (col. 5, lines 54-col. 6, lines 1-12 and 30-55), wherein default volume is indicated of a system sound (error sound).

Thus, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Fado by providing a default volume level as a volume setting control information for the purpose enabling a specific application to default to a predetermined volume level that is compatible to the criteria of the operating system or applicable device at hand for optimal volume control performance.

Regarding **claims 5, 13, and 21**, Fado and Rothschild disclose everything claimed as applied above (see claim 1, 9 and 17, respectively). Fado and Rothschild (Fado) further discloses a GUI for display various function regarding the adjustment of the audio levels to be

store, therein based upon the selected sound card application (col. 9, lines 2-6, col. 14, lines 8-47).

5. **Claims 2, 10, and 18** are rejected under 35 U.S.C. 103(a) as being unpatentable over the Fado and Rothschild in view of Hetherington.

Regarding **claims 2, 10 and 18**, Fado and Rothschild disclose everything claimed as applied above (see claims 1, 9 and 17, respectively). However, Fado and Rothschild fail to specifically disclose a sound volume adjustment coefficient.

Regarding the sound volume adjustment coefficient, in a similar field of endeavor, Hetherington disclose an apparatus and method for smooth audio scaling in a computer system. Hetherington's disclosure includes a DSP including a memory wherein algorithm is provide for determining logarithmic values that are used as multipliers to adjust the change in volume of the audio data samples (col. 1, lines 50-68 and col. 2, lines 1-10, and col. 4, lines 42-64), which constitutes a coefficient.

It would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Fado and Rothschild by providing a logarithmic values (coefficients) as taught by Hetherington for the purpose of scaling and increasing, decreasing or adjusting the volume as desired.

Response to Arguments

6. Applicant's arguments with respect to claims 1-2, 5, 9-10, 13, 17-18, and 21 have been considered but are moot in view of the new ground(s) of rejection.

The applicant's argues that the prior art, Fado, fails to disclose the operating system providing a system sound (error sound), therein as claimed. A new reference of prior art has been provided that teaches an workstation or computer using software to control audio characteristics, in which volume control data is among the operating parameters of the audio and where the audio may be adjusted to an default volume level as predetermined for the operating volume performance of the device, wherein, default volume level constitutes as a system sound or error sound. Thus, the art rejection Fado is maintained in modification of the newly applied prior art, Rothschild et al. And, the rejection of Fado and Herrington has been modified with Rothschild as well.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura A Grier whose telephone number is (571) 272-7518. The examiner can normally be reached on Monday - Friday, 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh N Tran can be reached on (571) 272-7564. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Laura A. Grier
April 4, 2005